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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

POSTAL RATE COMMISSION

BOROUGH OF THROOP,

Complainant

:

VS.

UNITED STATES POSTAL SERVICE, :

Defendant

Docket No.: C-99-5

**REPLY TO THE UNITED STATES POSTAL SERVICE**  
**MOTION TO DISMISS COMPLAINT.**

On July 19, 1999, the Borough of Throop ("Borough") filed a Complaint with the Postal Commission seeking to obtain an exclusive zip code (18511) which was promised to the Borough.

The United States Postal Service filed a Motion to Dismiss the Complaint raising three arguments in support of its Motion.

Initially, the Postal Service alleges that the Complaint concerns operational matters placed by Congress within the exclusive jurisdiction of the postal service and outside the Commission's jurisdiction.

In reply, 39 U.S.C.A. §3662 was specifically created by Congress as a specific mechanism for resolving disputes regarding postal service. (**See Tedesco v. U.S. Postal**

**Service, 553 F.Supp. 1387, 1389 (W.D. Pa. 1983).**

Specifically, 39 U.S.C.A. §3662 states, in relevant part:

Interested parties who believe the Postal Service is charging rates which do not conform to the policy set out in this title, **or who believe that they are not receiving postal service in accordance with the policies of this title may lodge a Complaint with the Postal Rate Commission in such form and in such manner as it may prescribe.** [Emphasis added].

Accordingly, this matter is within the commission's jurisdiction as the Complaint clearly alleges that complainant is not receiving postal service in accordance with the policy of Title 39.

In addition, the United States District Court in **Tedesco** specifically held:

While the clear purpose of the Postal Reorganization Act was to benefit the public including the plaintiffs, by providing improved postal service, Congress elected to produce this "benefit" by creating an autonomous **quasi-governmental** entity (the Postal Service) which would provide service in an efficient, business like manner. **Tedesco, 553 F.Supp. at 1389.**

The Postal Service's next argument is that Complainant has presented an individual, localized issue. Complainant's Motion to Dismiss clearly establishes that the Postal Service's second argument is not cause for dismissal. On page 3 of its Motion, the United States Postal Service states:

'While the Commission has not used this regulation to bar absolutely any consideration of individual or localized rate and service

complaints, especially where the Postal Service allegedly acted in an arbitrary, discriminatory, capricious on unreasonable manner, it has served as a basis for declining to conduct hearings on controversy that did not raise questions of general policies. [Emphasis added].

The United States Postal Service argument only establishes that the Commission may not choose to hold hearings on the Complaint; not that the Complaint should be dismissed.

The Postal Service declined to discuss the actual policy of the Postal Reorganization Act which can be found at 39 USC. **§101(a)(e)** and states: (a) the United States Postal Service operated as a basic and fundamental service provided to the people by the government of the United States, authorized by the Constitution, created by act of Congress, and supported by the people, the Postal Service shall have as its basic function, the obligation to provide postal service to bind the nation together through the educational, literary and business correspondence of the people. It shall provide prompt and reliable and efficient services to patrons in all areas and shall render postal service to all communities, The costs of establishing and maintaining the postal service shall not be apportioned to the overall value of such service to the people (e) in determining all policies for postal services, postal service shall give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important mail.

Lastly, the Postal Service alleges there are not enough five (5) digit zip codes when 18511 was already promised to the Borough of Throop.

The Complaint does fall within the scope of 39 U.S.C. §3662 and, as such, Complaint respectfully requests that the United States Postal Service Motion to Dismiss be denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Louis A. Cimini", is written over a horizontal line.

LOUIS A. CIMINI, ESQUIRE  
Solicitor for the Borough of Throop

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## CERTIFICATE OF SERVICE

I, LOUIS A. CIMINI, certify that I have this &day of August, 1999 served the foregoing Reply, by United States First Class Mail, postage pre-paid on the following individual(s):

David H. Ruben  
Kenneth H. Hollies  
475 L'Enfant Plaza West,  
S.W. Washington, D.C. 20260-1 137

Postal Rate Commission  
Washington, D.C. 20268-0001



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LOUIS A. CIMINI. ESQUIRE  
Solicitor for the Borough of Throop

VERIFICATION

I, JAMES **BARNICK**, depose and say that I am the President of the Throop Borough Council and that the facts set forth in the foregoing REPLY TO MOTION TO DISMISS THE COMPLAINT are true and correct to the best of my knowledge information and belief.

  
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**JAMES BARNICK**, PRESIDENT